

REMARKS

In the Office Action dated May 10, 2006, typographical errors were noted in claims 3, 12, 15, 24 and 37, which have been corrected.

Claims 39 and 40 were rejected under §112, second paragraph as being indefinite because the limitation "said third sensing electrode" in each of those claims did not have antecedent basis. This term should have been "said second sensing electrode" in each of claims 39 and 40, and therefore those claims have been amended to correct this error, and are submitted to be in full compliance with all provisions of §112, second paragraph.

Claims 1-3, 5, 7-15, 17, 19-28, 30 and 32-40 were rejected under 35 U.S.C. §102(e) as being anticipated by Weinberg et al. Claims 4, 6, 16, 18, 29 and 31 were stated to be allowable if rewritten in independent form.

In response, each of independent claims 1 and 13 has been amended to state that each of the second time delay and the third time delay is different from the first time delay. Independent method claim 26 has been amended to state that the first delay is selected to optimize hemodynamic performance of the heart, and at least one of the second and third delays is selected to reduce the risk of the heart experiencing arrhythmia. Support for these changes is present in the specification as originally filed in the paragraph beginning at page 5, line 5.

In substantiating the rejection of independent claims 1, 13 and 26 as originally filed, the Examiner relied on paragraphs [0056] and [0058] of the Weinberg et al. reference as teaching pacing of one ventricle with a delay regard to the other, and vice versa. In these paragraphs of the Weinberg et al. reference, however, the delay under both circumstances is identical, namely in a range between 10-50

milliseconds. There is no teaching in the Weinberg et al. reference that the second and third delays are different from each other, and the range of 10-50 milliseconds is also the range given for the first delay in the Weinberg et al. reference in paragraph [[047]. Even though these delays are specified in the Weinberg et al. reference as being in a range, there is no teaching or suggestion in the Weinberg et al. reference that, within that range, any of these delays can or should be selected to be different from each other.

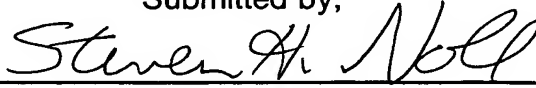
Moreover, in the Weinberg et al. reference there is no explanation provided as to the reason for all of these delays being within this predetermined range. There is thus no teaching in the Weinberg et al. reference to select the first delay to optimize hemodynamic performance of the heart, while selecting one or both of the second and third delays to reduce the risk of arrhythmia.

The Weinberg et al. reference, therefore, does not disclose all of the elements of independent claims 1 and 13, nor all of the method steps of independent claim 26, and thus does not anticipate any of those independent claims. Dependent claims 2, 3, 5 and 7-12 add further structure to the novel combination of claim 1, and dependent claims 14, 15, 17 and 19-25 add further structure to the novel combination of claim 13, and claims 27, 28, 30 and 32-40 and new claims 41 and 42, add further method steps to the novel method of claim 26, and therefore none of those dependent claims is anticipated by the Weinberg et al. reference for the same reasons discussed above in connection with the independent claims.

In view of Applicants' belief that independent claims 1, 13 and 26 are allowable over the art of record, claims 4, 6, 16, 18, 29 and 31 have been retained in dependent form at this time.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,

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